



Billing Code: 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, 743, 748, 758, and 774

[Docket No. 210810-0160]

RIN 0694-AF47

Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control under the United States Munitions List (USML)

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule; technical corrections.

SUMMARY: On January 23, 2020, the Department of Commerce published a final rule in conjunction with a Department of State final rule to revise Categories I (firearms, close assault weapons and combat shotguns), II (guns and armaments), and III (ammunition/ordnance) of the

United States Munitions List (USML) and transfer items that no longer warrant control on the USML in the International Traffic in Arms Regulations (ITAR) to the Commerce Control List (CCL). This final rule makes corrections and clarifications to the January 23 rule. The changes made in this final rule are intended to make the requirements easier to understand, interpreted consistently, and in accordance with the intent of the Commerce January 23 rule.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Background

On January 23, 2020, the Department of Commerce published the final rule, *Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML)* (85 FR 4136) (referred to henceforth as the “Commerce January 23 rule”) in conjunction with a Department of State final rule to revise Categories I, II, and III of the USML in the ITAR (85 FR 3819) (referred to henceforth as the “State January 23 rule”). The Department of Commerce in issuing the January 23 rule described how articles the President determined no longer warrant control under USML Category I – Firearms, Close Assault Weapons and Combat Shotguns; Category II – Guns and Armament; and Category III – Ammunition/Ordnance were to be controlled on the CCL of the Export Administration Regulations (EAR). The Commerce January 23 rule was published in conjunction with the State January 23 rule, issued by the Department of State, Directorate of Defense Trade Controls (DDTC), completing the initial review of the USML that began in 2011

and making conforming changes to the EAR to control these items on the Commerce Control List (CCL).

This final rule makes certain corrections and clarifications for the changes made in the Commerce January 23 rule. These changes are made to improve understanding of the 0x5zz Export Control Classification Numbers (ECCNs) for items that transitioned from USML Categories I and III to the CCL and to the associated control structure added to the EAR. These changes are informed by BIS's experience of licensing, classifying, and enforcing the export control requirements specific to these items. These changes are also informed by BIS's experience of conducting outreach and answering questions from the public on the changes made to the EAR in the Commerce January 23 rule. The changes made in this final rule are intended to make the requirements easier to understand, provide for consistent interpretation, and ensure the requirements are in accordance with the intent of the Commerce January 23 rule.

Corrections and Clarifications

In § 740.9(b) (Exports of items temporarily in the United States), this final rule removes the last sentence of the introductory text of paragraph (b)(1) and adds that same sentence as introductory text to paragraph (b). This sentence applies to all of paragraph (b), and so needed to be placed in the introductory text of paragraph (b) instead of paragraph (b)(1) to clarify the scope of its application.

In § 742.17 (Exports of firearms to OAS member countries), this final rule revises the cross reference to § 748.12(d)(4) by updating that to reference paragraph (d)(3) instead of (d)(4). Paragraph (d)(4) does not exist and paragraph (d)(3) is what is intended in the described cross reference to § 748.12.

In § 743.4 (Conventional arms reporting), this final rule removes the penultimate sentence of paragraph (a). This final rule removes this sentence to conform with the clarification made to § 758.1(g)(4)(ii) that this requirement only applies when a filer is following the alternative submission method for conventional arms reporting.

In § 743.4, this final rule revises the second sentence of paragraph (h) to remove the phrase ‘six character ECCN classification (*i.e.*, 0A501.a or 0A501.b)’ and adds in its place the phrase ‘items paragraph classification (*i.e.*, .a, or .b) for ECCN 0A501.’ This change is made to conform with the change made to § 758.1(g)(4)(ii) to reduce the number of characters to be included in the Commodity description block to identify ECCN 0A501.a or .b firearms under the alternative submission method under paragraph (h).

In § 748.12 (Firearms import certificate or import permit), this final rule revises paragraph (b)(1) by removing the reference to supplement no. 6 to part 748. Previously, the second parenthetical phrase in paragraph (b)(1) caused confusion for some exporters by incorrectly referencing supplement no. 6, which is reserved. To avoid this confusion, this final rule clarifies § 748.12(b)(1) by removing the parenthetical phrase that refers to supplement no. 6 to part 748. As an additional conforming change, in supplement no. 6 to part 748, this final rule revises the supplement to remove the heading and bracketed text to avoid confusion for some exporters. This change is made to supplement no. 6 to part 748 because the heading and bracketed text is unnecessary for a reserved supplement. However, because part 748 includes supplement nos. 7 to 9, this final rule continues to reserve supplement no. 6, as a placeholder for future use.

In § 748.12(d) (Procedures for using document with license application), this final rule revises paragraph (d)(3) to add a new Note 2. New Note 2 clarifies that license applications for exports and reexports to an Organization of American States (OAS) member country must include the initial Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials (Firearms

Convention) (FC) Import Certificate. This note also clarifies that all BIS licenses for ECCNs 0A501 and 0A505 commodities will include a standard rider that requires that the applicant/exporter have a current FC Import Certificate on file prior to export. The note clarifies that while FC Import Certificates are usually valid for 1 year, BIS licenses are valid for 4 years. This clarification addresses a common question that BIS has received regarding the validity period of FC Import Certificates as compared to the validity period of BIS licenses. This note clarifies that it is the responsibility of the exporter to have a current copy of the FC import certificate prior to making an export under the authorization of the license.

Also in § 748.12(e) (Requirement to obtain an import certificate or permit for other than OAS member states), this final rule adds a new Note 3 to paragraph (e)(3). New Note 3 clarifies the requirements for BIS license applications for ECCNs 0A501 and 0A505 commodities when the license application is not for exports to an OAS country. Note 3 clarifies that license applicants for exports and reexports to countries requiring that a government-issued certificate or permit be obtained prior to importing the commodity must have the initial government-issued certificate or permit prior to any export under BIS license. Note 3, similar to Note 2, notes the usual, shorter validity periods of government-issued certificate or permit compared to the four year validity period of BIS licenses and clarifies that the applicant/exporter must have a current government-issued certificate or permit on file prior to export under the license. The rider included on these licenses also addresses the scenario where if subsequently a foreign government decides a government issued certificate or permit is required, the existing license would already take that into account and require the exporter or reexporter to obtain the government-issued certificate or permit prior to making the export or reexport. Lastly, as a conforming change, this final rule redesignates Note 2 to paragraph (e) as Note 4 to paragraph (e).

In § 758.1 (The electronic export information (EEI) filing to the automated export system (AES)), this final rule revises paragraph (g)(4)(ii) (Identifying end item firearms by “items” level

classification or other control descriptor in the EEI filing in AES), to make two clarifications. The first change clarifies that the requirement in paragraph (g)(4)(ii) is only applicable when an exporter will use the alternative submission method under § 743.4(h) for conventional arms reporting. BIS is making this change in response to questions from the public asking for clarification because they prefer using the standard method under § 743.4(h) or, as a result of how their software systems are set up for filing EEI in AES, that meeting the requirement under paragraph (g)(4)(ii) is not possible. This clarification will make it clear that when relying on the standard method, this additional EEI filing requirement in AES is not applicable. The second clarification that BIS makes is to shorten the text required in the commodity description block in the EEI filing in AES. Instead of requiring the six character ECCN classification (*i.e.*, 0A501.a or 0A501.b), or, for shotguns controlled under 0A502, the phrase ‘0A502 barrel length less than 18 inches,’ filers will now be required, when relying on the alternative submission method, to insert ‘.a’ or ‘.b’ for 0A501, or ‘SB’ instead of ‘0A502 barrel length less than 18 inches” in the commodity description block in the EEI filing in AES. This change is possible because the ECCN is already included in another block in the EEI filing in AES. BIS can therefore shorten the required text, which will assist filers by eliminating problems related to the limited number of characters allowed in the commodity description block, while continuing to allow BIS to identify the items as firearms and shotguns in the AES data.

In ECCN 0A018, this final rule removes the ECCN. No items are currently in this ECCN 0A018, so this change is limited to removing the heading and the cross reference to 0A505 for “parts” and “components” for ammunition that, immediately prior to March 9, 2020, were classified under 0A018.b. Because the January 23 rule has been effective for over one year, this cross reference is no longer needed.

In ECCN 0A501, this final rule makes thirteen changes to the control text for clarity. These changes include adding additional notes and technical notes, as well as other clarifications

to the text to make the control parameters easier to understand and, therefore, interpreted consistently. These corrections and clarifications to 0A501 are described as follows:

This final rule adds a new Technical Note to 0A501.a. This technical note clarifies that the non-automatic and semi-automatic firearms described in 0A501 includes those chambered for the Browning Machine Gun (BMG) cartridge.

This final rule revises 0A501.c to add the term ‘striker’ after the term ‘hammers’ in two places to indicate that the term is synonymous for purposes of this control parameter.

This final rule adds a new Technical Note to 0A501.c to clarify that barrel blanks that have reached a stage in manufacturing in which they are either chambered or rifled are controlled by 0A501.c.

This final rule revises 0A501.d to remove the phrase ‘greater than 16 rounds’ and add in its place the phrase ‘17 to 50 rounds’ for clarity.

This final rule revises Note 2 to 0A501.d to add a cross reference to the USML to specify that magazines with a capacity greater than 50 rounds are controlled under USML Category I.

This final rule adds a new Note 3 to 0A501.e. This note clarifies that the term ‘frames (receivers)’ as used under 0A501.e refers to any “part” or “component” of the firearm that has or normally has a serial number when required by law. This new note also clarifies that the scope of 0A501.e for frames (receivers) is synonymous with a “part” or “component” that ATF regulates as a “firearm.”

This final rule revises ECCN 0A501.y.1 by adding a parenthetical phrase after the term stocks to clarify that stocks include adjustable, collapsible, blades and braces. This final rule also adds the terms ‘handguards’ and ‘forends’ to ECCN 0A501.y.1 to clarify that stocks also include the handguard and the forend. Both of these amendments to ECCN 0A501.y.1 are

clarifications, not additions to the parameters of the items controlled under the entry. As a conforming change to the addition of striker to ECCN 0A501.c, this final rule adds the term ‘striker’ after the term ‘hammers’ in the parenthetical phrase for the exclusions from 0A501.y.1.

This final rule removes and reserves ECCN 0A501.y.2 to .y.5. This change is made because the vast majority of items that would otherwise meet the control parameters under 0A501.y.2 to y.5 were subject to the EAR prior to March 9, 2020 (the effective date of the Commerce January 23 rule) and are designated as EAR99 on the basis of paragraph (b)(1) of “specially designed.” Based on BIS official classifications since January 23, 2020, no additional commodities have been identified that would warrant keeping these commodities in 0A501.y. Therefore, the items that are controlled under ECCN 0A501.y.2 to y.5 are those commodities that meet the control parameters and were moved to the EAR on March 9, 2020. However, the items identified as being classified under 0A501.y.2 to y.5 since January 23, 2020 have not substantively differed from the other items that were previously subject to the EAR and designated as EAR99. In addition, trying to keep track of which commodities are designated EAR99 and which are controlled in 0A501.y.2 to y.5 has created unneeded burdens on industry and the U.S. Government, so it is warranted to remove these .y paragraphs and treat these commodities all as EAR99.

This final rule adds a Technical note 2 to 0A501 to specify that for purposes of 0A501.e, receivers incorporating any other controlled “part” or “component,” such as a barrel under 0A501.c, remain controlled under 0A501.e. BIS has received questions from the public on the applicability of 0A501.e when a receiver incorporates a “part” or “component” from one of the items captured under other 0A501 paragraphs. This new Technical Note 2 to 0A501 will make the relationship between the different items under 0A501 clear.

This final rule revises Note 3 to 0A501 to redesignate the note as Note 4 to 0A501 and to add the word ‘and’ between the terms ‘muzzle loading’ and ‘black powder.’ This clarification is

made because some muzzle loaders use black powder and some muzzle loaders use smokeless powder, and both are subject to the guidance in the Note.

The final rule in Note 4 to 0A501 redesignates the note as Note 5 to 0A501 and replaces the phrase ‘later than’ with the word ‘post’ for clarity. In addition, this final rule adds the word ‘and’ between the terms ‘muzzle loading’ and ‘black powder’ because, as noted above, some muzzle loaders use black powder and some muzzle loaders use smokeless powder, and both are subject to the guidance in the Note.

This final rule adds a new Note 6 to 0A501, as a conforming change to the removal of ECCN 0A501.y.2 to .y.5, to specify these “parts” and “components” previously controlled under 0A501.y.2 to y.5 are designated as EAR99. This note also eliminates the confusion regarding whether these “parts” or “components” are “specially designed” for purposes of 0A501.x.

This final rule adds a Note 7 to 0A501 to clarify how kits of commodities that contain “parts” and “components” with different classifications under 0A501 should be classified. This note clarifies that the kit should be classified based on the classification of the most restrictive “part” or “component” included in the kit. This guidance is based on existing BIS classification practice, but adding the new Note 7 to 0A501 will make this clear and hopefully reduce the number of questions that BIS receives specific to this issue. Note 7 to 0A501 also clarifies that a complete firearm disassembled in kit form is controlled as a firearm.

In ECCN 0A505, this final rule makes nine changes to the control text for clarity. These changes include adding additional notes, technical notes, or otherwise clarifying or adding text, *e.g.*, adding a new related definition, to make the control parameters easier to understand and interpreted consistently. These corrections and clarifications to 0A505 are as follows:

This final rule adds an ECCN-specific definition of ‘marking rounds’ in the Definitions paragraph in the List of Items Controlled section of ECCN 0A505. This definition clarifies that

‘marking rounds’ are non-lethal. The definition also clarifies what ‘marking rounds’ are typically used for and the types of materials used in ‘marking rounds.’

This final rule revises ECCN 0A505.b to add the phrase ‘any material’ to the end of the parenthetical phrase that provides technical parameters for the types of buckshot controlled. The inclusion of the phrase ‘any material’ will clarify that 0A505.b controls plastic and rubber as well as metal buckshot that meet the control criteria, including the rubber/plastic (less lethal) buckshot rounds used by law enforcement. Also in 0A505.b, this final rule adds shotgun shells that contain only, or are for the dispersion of, chemical irritants to paragraph .b to clarify that such shells are controlled with buckshot shotgun shells under paragraph .b. This final rule removes shotgun shells containing only chemical irritants from ECCN 1A984 (as described further below) and adds them to 0A505.b where they will be controlled for crime control (CC Column 1), and United Nations (UN) reasons for control. Because of the controls required on shotgun shells containing only chemical irritants, it is more appropriate to control them under 0A505.b, where they will have the same level of control as they did under 1A984, than under 0A505.c.

This final rule removes Note 1 to ECCN 0A505.c. Note 1 is no longer needed because the shotguns shells previously controlled under 1A984 are being moved by this final rule to 0A505.b, eliminating the need for a cross reference to 1A984 in 0A505.c. As 0A505.c is controlled for UN and AT reasons only, it was not appropriate to move the shotgun shells from 1A984 to 0A505.c, because the level of control for 1A984 items is higher than the level of control for 0A505.c items. Therefore, this rule moves the shotguns shells from 1A984 to 0A505.b where they will continue to be controlled at the same level.

This final rule revises ECCN 0A505.d to add a reference to 0A502 to clarify that the blank ammunition controlled under 0A505.d includes blank ammunition for items controlled under 0A502, provided the ammunition is also not enumerated in USML Category III.

This final rule also revises ECCN 0A505.d to add a technical note to clarify that ‘marking rounds’ that have paint or dye as the projectile are controlled under 0A505.d. As noted above, this rule also added a Related Definition for ‘marking rounds;’ the new definition and this new technical note to 0A505.d will enhance understanding of the controls under 0A505 for ‘marking rounds.’

This final rule revises ECCN 0A505.x to remove the reference to paragraph .d. The reference is redundant to the phrase ‘or the CCL,’ which includes 0A505.d.

This final rule redesignates Note 2 to 0A505.x, Note 3 to 0A505.x, and Note 4 0A505 as Note 1 to 0A505.x, Note 2 to 0A505.x and Note 3 to 0A505, respectively, as conforming changes to the removal of Note 1 to 0A505.c.

This final rule revises newly redesignated Note 1 to 0A505.x (prior to this rule designated as Note 2 to 0A505.x), to include, at the end of the note, the term ‘frangible projectiles’ after the phrase ‘copper projectiles.’ This change will clarify that the “parts” and “components” under 0A505.x include ‘frangible projectiles.’ Frangible projectiles are not made from a lead projectile covered with a copper jacket, but rather are produced with composite materials of tungsten, copper, or tin utilizing an injection molding or powder metallurgical production process.

This final rule revises newly redesignated Note 3 to 0A505 (prior to this rule designated as Note 4 to 0A505), by removing the word ‘lead’ from the term ‘lead shot’ and adding in its place the word ‘metal.’ This clarification to the control parameter addresses the fact that steel and bismuth shot are also used for hunting loads, so the control parameter should not be limited to lead as the only material. The use of the term ‘metal shot’ instead of ‘lead shot’ will clarify that other types of shot are also within the control parameter, as was intended by the Commerce January 23 rule. This final rule also revises the newly redesignated Note 3 to 0A505 to remove the term ‘blank’ and adds in its place the correct term ‘drill.’

This final rule adds a new Note 4 to ECCN 0A505 to clarify the items paragraph under

which shotgun shells that contain two or more balls/shot larger than .24-inch are controlled. This note clarifies that such shotgun shells are controlled under 0A505.b.

In ECCN 0B501, this final rule clarifies the control text of ECCN 0B501.d by deleting the word ‘spill’ in the phrase ‘spill boring.’ This final rule also adds the term ‘reaming’ before the term ‘machines.’ These changes do not change the intended scope of control. These changes are made for clarity and for consistency with BIS issued classifications for these types of machines.

In ECCN 0E505, this final rule makes a correction to the text in the RS Control paragraph in the License Requirements section. The phrase ‘entire entry except’ was inadvertently included in the RS Control paragraph in the Commerce January 23 rule, which created confusion regarding the intended scope of the RS license requirement. This final rule removes the unintended phrase ‘entire entry except’ from the RS license requirement to clarify the scope of the RS license requirement under ECCN 0E505.

In ECCN 1A984, this final rule revises the heading of 1A984 to remove the phrase ‘unless the shotgun shells contain only chemical irritant’ in the parenthetical phrase that follows the phrase ‘and other pyrotechnic articles.’ This final rule moves shotgun shells that contain only chemical irritants to ECCN 0A505.b, as described above under the description of changes of 0A505.b.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. Sections 4801–4852). ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person may be required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid OMB control number.

This final regulation involves one collection currently approved by OMB under this collection and control number: the U.S. Census Bureau collection for the Automated Export System (AES) Program (control number 0607-0152). This final rule will also affect the information collection under control number 0607-0152, for filing EEI in AES because of one change this final rule makes to part 758 of the EAR. This rule revises § 758.1(g)(4)(ii) to shorten the information that is required to be included when relying on the alternative method for identifying end item firearms by “items” level classification or other control descriptor in the EEI filing in AES to make it easier to fit this identifying information in the Commodity description block in the EEI filing in AES. This change is not anticipated to result in a change in the burden under this collection.

Any comments regarding these collections of information, including suggestions for reducing the burden, may be submitted online at <https://www.reginfo.gov/public/do/PRAMain>. Find the particular information collection by using the search function and entering either the title of the collection or the OMB Control Number.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4801-4852), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects

15 CFR Parts 740, 748, and 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 740, 742, 743, 748, 758, and 774 of the Export Administration Regulations (15 CFR parts 730-774) are amended as follows:

PART 740 – LICENSE EXCEPTIONS

1. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

2. Section 740.9 is amended by:

- a. Adding introductory text to paragraph (b); and
- b. Removing the last sentence of paragraph (b)(1) introductory text.

The addition reads as follows:

§ 740.9 Temporary imports, exports, reexports, and transfers (in-country) (TMP).

* * * * *

(b) *Exports of items temporarily in the United States.* No provision of this paragraph (b), other than paragraph (b)(3), (4), or (5), may be used to export firearms controlled by ECCN 0A501.a, .b, or shotguns with a barrel length less than 18 inches controlled in ECCN 0A502.

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PART 742 – CONTROL POLICY—CCL BASED CONTROLS

3. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2020, 85 FR 72897 (November 13, 2020).

4. Section 742.17 is amended by revising paragraph (g) to read as follows:

§ 742.17 Exports of firearms to OAS member countries.

* * * * *

(g) *Validity period for licenses.* Although licenses generally will be valid for a period of four years, your ability to ship items that require an FC Import Certificate or equivalent official document under this section may be affected by the validity of the FC Import Certificate or equivalent official document (see § 748.12(d)(3) of the EAR).

PART 743 – SPECIAL REPORTING AND NOTIFICATION

5. The authority citation for part 743 continues to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; 78 FR 16129.

6. Section 743.4 is amended by removing the penultimate sentence of paragraph (a) introductory text and revising paragraph (h).

The revision reads as follows:

§ 743.4 Conventional arms reporting.

* * * * *

(h) *Alternative submission method.* This paragraph (h) describes an alternative submission method for meeting the conventional arms reporting requirements of this section. The alternative submission method requires the exporter, when filing the required EEI submission in AES, pursuant to § 758.1(b)(9) of the EAR, to include the items paragraph classification (*i.e.*, .a, or .b) for ECCN 0A501 as the first text to appear in the Commodity description block. If the exporter properly includes this information in the EEI filing in AES, the Department of Commerce will be able to obtain that export information directly from AES to meet the U.S. Government's commitments to the Wassenaar Arrangement and United Nations for conventional arms reporting. An exporter that complies with the requirements in § 758.1(g)(4)(ii) of the EAR does not have to submit separate annual and semi-annual reports to the Department of Commerce pursuant to this section.

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PART 748 – APPLICATIONS (CLASSIFICATION, ADVISORY, AND LICENSE) AND DOCUMENTATION

7. The authority citation for part 748 is revised to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2021, 86 FR 43901 (August 10, 2021).

8. Section 748.12 is amended by:

a. Revising paragraphs (b)(1) and (d)(3);

b. Redesignating Note 2 to paragraph (e)(3) as Note 4 to paragraph (e)(3); and

c. Adding Note 3 to paragraph (e)(3).

The revisions and addition read as follows.

§ 748.12 Firearms import certificate or import permit.

* * * * *

(b) * * *

(1) Applicants must request that the importer (*e.g.*, ultimate consignee or purchaser) obtain the FC Import Certificate or an equivalent official document from the government of the importing country, and that it be issued covering the quantities and types of firearms and related items that the applicant intends to export. Upon receipt of the FC Import Certificate, its official equivalent, or a copy, the importer must provide the original or a certified copy of the FC Import Certificate or the original or a certified copy of the equivalent official document to the license applicant.

* * * * *

(d) * * *

(3) *Validity period.* FC Import Certificates or equivalent official documents issued by an OAS member country will be valid until the expiration date on the Certificate or for a period of four years, whichever is shorter.

Note 2 to paragraph (d)(3): Applicants for license applications for exports and reexports to an OAS member country must submit the initial FC Import Certificate with the license application. All BIS licenses for ECCNs 0A501 and 0A505 commodities will include a standard rider that requires that the applicant/exporter must have a current FC Import Certificate on file prior to export. Note that while FC Import Certificates are usually valid for 1 year, BIS licenses are valid for 4 years. The text of the standard rider will generally be as follows: “A current, complete, accurate and valid Firearms Convention (FC) Import Certificate (or equivalent official document) shall be obtained, if required by the government of the importing country, from the Ultimate Consignee and maintained in the exporter’s file prior to any export of the item(s) listed

on this license. A copy shall be provided to the U.S. Government upon request. (Refer to section 742.17(b) of the EAR for guidance.)”

(e) * * *

Note 3 to paragraph (e): Applicants for license applications for exports and reexports to countries requiring that a government-issued certificate or permit be obtained prior to importing the commodity must have the initial government-issued certificate or permit prior to any export. All BIS licenses for ECCNs 0A501 and 0A505 commodities will include a standard rider that requires that the applicant/exporter have a government-issued certificate or permit on file prior to export. Note that while government-issued certificates or permits are usually valid for 1 year, BIS licenses are valid for 4 years. The text of the standard rider will generally be as follows: “A current, complete, accurate and valid Firearms Convention (FC) Import Certificate (or equivalent official document) shall be obtained, if required by the government of the importing country, from the Ultimate Consignee and maintained in the Exporter’s file prior to any export of the item(s) listed on this license. A copy shall be provided to the U.S. Government upon request. (Refer to § 742.17(b) of the EAR for guidance.)”

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Supplement No. 6 to Part 748 [Removed and Reserved]

9. Supplement No. 6 to part 748 is removed and reserved.

PART 758 – EXPORT CLEARANCE REQUIREMENTS

10. The authority citation for part 758 is revised to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

11. Section 758.1 is amended by revising paragraph (g)(4)(ii) to read as follows:

§ 758.1 The Electronic Export Information (EEI) filing to the Automated Export System (AES).

* * * * *

(g) * * *

(4) * * *

(ii) *Identifying end item firearms by “items” level classification or other control descriptor in the EEI filing in AES.* For any export of items controlled under ECCNs 0A501.a or .b, or shotguns with a barrel length less than 18 inches controlled under ECCN 0A502, in addition to any other required data for the associated EEI filing when an exporter will use the alternative submission method under § 743.4(h) for conventional arms reporting, you must include the items paragraph classification (*i.e.*, .a, or .b) for ECCN 0A501, or for shotguns controlled under 0A502 the letters “SB” for short barrel length less than 18 inches as the first text to appear in the Commodity description block in the EEI filing in AES. (*See* § 743.4(h) of the EAR for the use of this information for conventional arms reporting).

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PART 774 - THE COMMERCE CONTROL LIST

12. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

13. In Supplement No. 1 to part 774, Category 0, remove Export Control Classification Number (ECCN) 0A018.

14. In Supplement No. 1 to part 774, Category 0, revise Export Control Classification Number (ECCN) 0A501 to read as follows:

0A501 Firearms (except 0A502 shotguns) and related commodities as follows (see List of Items controlled).

License Requirements

Reason for Control: NS, RS, FC, UN, AT

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738)</i>
NS applies to entire entry except 0A501.y	NS Column 1
RS applies to entire entry except 0A501.y	RS Column 1
FC applies to entire entry except 0A501.y	FC Column 1
UN applies to entire entry	See § 746.1 of the EAR for UN controls
AT applies to entire entry	AT Column 1

License Requirement Note: In addition to using the Commerce Country Chart to determine license requirements, a license is required for exports and reexports of ECCN 0A501.y.7 firearms to the People's Republic of China.

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: \$500 for 0A501.c, .d, and .x.

\$500 for 0A501.c, .d, .e, and .x if the ultimate destination is Canada.

GBS: N/A

Special conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in this entry.

List of Items Controlled

Related Controls: (1) Firearms that are fully automatic, and magazines with a capacity of greater than 50 rounds, are “subject to the ITAR.” (2) See ECCN 0A502 for shotguns and their “parts” and “components” that are subject to the EAR. Also see ECCN 0A502 for shot-pistols. (3) See ECCN 0A504 and USML Category XII for controls on optical sighting devices.

Related Definitions: N/A

Items:

- a. Non-automatic and semi-automatic firearms equal to .50 caliber (12.7 mm) or less.

Note 1 to paragraph 0A501.a: ‘Combination pistols’ are controlled under ECCN 0A501.a. A ‘combination pistol’ (a.k.a., a combination gun) has at least one rifled barrel and at least one smoothbore barrel (generally a shotgun style barrel).

Technical Note to 0A501.a: Firearms described in 0A501.a includes those chambered for the .50 BMG cartridge.

- b. Non-automatic and non-semi-automatic rifles, carbines, revolvers or pistols with a caliber greater than .50 inches (12.7 mm) but less than or equal to .72 inches (18.0 mm).

- c. The following types of “parts” and “components” if “specially designed” for a commodity controlled by paragraph .a or .b of this entry, or USML Category I (unless listed in USML Category I(g) or (h)): barrels, cylinders, barrel extensions, mounting blocks (trunnions),

bolts, bolt carriers, operating rods, gas pistons, trigger housings, triggers, hammers/striker, sears, disconnectors, pistol grips that contain fire control “parts” or “components” (e.g., triggers, hammers/striker, sears, disconnectors) and buttstocks that contain fire control “parts” or “components.”

Technical Note to 0A501.c: Barrel blanks that have reached a stage in manufacturing in which they are either chambered or rifled are controlled by 0A501.c.

d. Detachable magazines with a capacity of 17 to 50 rounds “specially designed” for a commodity controlled by paragraph .a or .b of this entry.

Note 2 to paragraph 0A501.d: Magazines with a capacity of 16 rounds or less are controlled under 0A501.x; for magazines with a capacity greater than 50 rounds, see USML Category I.

e. Receivers (frames) and “complete breech mechanisms,” including castings, forgings, stampings, or machined items thereof, “specially designed” for a commodity controlled by paragraph .a or .b of this entry.

Note 3 to 0A501.e: Frames (receivers) under 0A501.e refers to any “part” or “component” of the firearm that has or is customarily marked with a serial number when required by law. This paragraph 0A501.e is synonymous with a “part” or “component” that is regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (see 27 CFR parts 447, 478, and 479,) as a firearm.

f. through w. [Reserved]

x. “Parts” and “components” that are “specially designed” for a commodity classified under paragraphs .a through .c of this entry or the USML and not elsewhere specified on the USML or CCL.

y. Specific “parts,” “components,” “accessories” and “attachments” “specially designed” for a commodity subject to control in this ECCN or common to a defense article in USML Category I and not elsewhere specified in the USML or CCL as follows, and “parts,” “components,” “accessories,” and “attachments” “specially designed” therefor.

y.1. Stocks (including adjustable, collapsible, blades and braces), grips, handguards, or forends, that do not contain any fire control “parts” or “components” (e.g., triggers, hammers/striker, sears, disconnectors);

y.2 to y.5. [RESERVED]

y.6. Bayonets; and

y.7. Firearms manufactured from 1890 to 1898 and reproductions thereof.

Technical Note 1 to 0A501: The controls on “parts” and “components” in ECCN 0A501 include those “parts” and “components” that are common to firearms described in ECCN 0A501 and to those firearms “subject to the ITAR.”

Technical Note 2 to 0A501: A receiver with any other controlled “part” or “component” (e.g., a barrel (0A501.c), or trigger guard (0A501.x), or stock (0A501.y.1)) is still controlled under 0A501.e.

Note 4 to 0A501: Antique firearms (i.e., those manufactured before 1890) and reproductions thereof, muzzle loading and black powder firearms except those designs based on centerfire weapons of a post 1937 design, BB guns, pellet rifles, paint ball, and all other air rifles are EAR99 commodities.

Note 5 to 0A501: Muzzle loading and black powder firearms with a caliber less than 20 mm that were manufactured post 1937 that are used for hunting or sporting purposes that were not

“specially designed” for military use and are not “subject to the ITAR” nor controlled as shotguns under ECCN 0A502 are EAR99 commodities.

***Note 6 to 0A501:** Scope mounts or accessory rails, iron sights, sling swivels, and butt plates or recoil pads are designated as EAR99. These commodities have been determined to no longer warrant being “specially designed” for purposes of ECCN 0A501.*

***Note 7 to 0A501:** A kit, including a replacement or repair kit, of firearms “parts” or “components” customarily sold and exported together takes on the classification of the most restrictive “part” or “component” that is included in the kit. For example, a kit containing 0A501.y and .x “parts,” is controlled as a 0A501.x kit because the .x “part” is the most restrictive “part” included in the kit. A complete firearm disassembled in a kit form is controlled as a firearm under 0A501.a, .b, or .y.7.*

15. In Supplement No. 1 to part 774, Category 0, revise Export Control Classification Number (ECCN) 0A505 to read as follows:

0A505 Ammunition as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, CC, FC, UN, AT

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738)</i>
NS applies to 0A505.a and .x	NS Column 1
RS applies to 0A505.a and .x	RS Column 1
CC applies to 0A505.b	CC Column 1

FC applies to entire entry except 0A505.d	FC Column 1
UN applies to entire entry	See § 746.1 of the EAR for UN controls
AT applies to 0A505.a, .d, and .x	AT Column 1
AT applies to 0A505.c	<p>A license is required for items controlled by paragraph .c of this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry.</p> <p>See §742.19 of the EAR for additional information.</p>

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: \$500 for items in 0A505.x, except \$3,000 for items in 0A505.x that, immediately prior to March 9, 2020, were classified under 0A018.b. (*i.e.*, “Specially designed” components and parts for ammunition, except cartridge cases, powder bags, bullets, jackets, cores, shells, projectiles, boosters, fuses and components, primers, and other detonating devices and ammunition belting and linking machines (all of which are “subject to the ITAR”). (See 22 CFR parts 120 through 130))

GBS: N/A

Special conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 0A505.

List of Items Controlled

Related Controls: (1) Ammunition for modern heavy weapons such as howitzers, artillery, cannon, mortars and recoilless rifles as well as inherently military ammunition types such as ammunition preassembled into links or belts, caseless ammunition, tracer ammunition, ammunition with a depleted uranium projectile or a projectile with a hardened tip or core and ammunition with an explosive projectile are “subject to the ITAR.” (2) Percussion caps, and lead balls and bullets, for use with muzzle-loading firearms are EAR99 items.

Related Definitions: ‘Marking rounds’ are non-lethal, typically used for training purposes, and contain a dye or paint in a capsule that is not a chemical irritant.

Items:

- a. Ammunition for firearms controlled by ECCN 0A501 or USML Category I and not enumerated in paragraph .b, .c, or .d of this entry or in USML Category III.
- b. Buckshot (No. 4 .24” diameter and larger, any material) shotgun shells and shotgun shells that contain only, or are for the dispersion of chemical irritants.
- c. Shotgun shells (including less than lethal rounds) that do not contain buckshot; and “specially designed” “parts” and “components” of shotgun shells.
- d. Blank ammunition for firearms controlled by ECCNs 0A501 or 0A502 and not enumerated in USML Category III.

Technical Note to 0A505.d: Includes ‘marking rounds’ that have paint/dye as the

projectile.

e. through w. [Reserved]

x. “Parts” and “components” that are “specially designed” for a commodity subject to control in this ECCN or a defense article in USML Category III and not elsewhere specified on the USML or the CCL.

Note 1 to 0A505.x: *The controls on “parts” and “components” in this entry include Berdan and boxer primers, metallic cartridge cases, and standard metallic projectiles such as full metal jacket, lead core, copper projectiles, and frangible projectiles.*

Note 2 to 0A505.x: *The controls on “parts” and “components” in this entry include those “parts” and “components” that are common to ammunition and ordnance described in this entry and to those enumerated in USML Category III.*

Note 3 to 0A505: *Metal shot smaller than No. 4 Buckshot, empty and unprimed shotgun shells, shotgun wads, smokeless gunpowder, ‘dummy rounds’ and ‘drill rounds’ (unless linked or belted), not incorporating a lethal or non-lethal projectile(s) are designated EAR99. A ‘dummy round’ or ‘drill round’ is a round that is completely inert, (i.e., contains no primer, propellant, or explosive charge). It is typically used to check weapon function and for crew training.*

Note 4 to 0A505: *Shotgun shells that contain two or more balls/shot larger than .24-inch are controlled under 0A505.b.*

16. In Supplement No. 1 to part 774, Category 0, revise Export Control Classification Number (ECCN) 0B501 to read as follows:

0B501 Test, inspection, and production “equipment” and related commodities for the “development” or “production” of commodities enumerated or otherwise described in ECCN 0A501 or USML Category I as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, UN, AT

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738)</i>
NS applies to entire entry except equipment for ECCN 0A501.y	NS Column 1
RS applies to entire entry except equipment for ECCN 0A501.y	RS Column 1
UN applies to entire entry	See § 746.1 of the EAR for UN controls
AT applies to entire entry	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: \$3000

GBS: N/A

Special conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used to ship any item in this entry.

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items:

- a. Small arms chambering machines.
- b. Small arms deep hole drilling machines and drills therefor.
- c. Small arms rifling machines.
- d. Small arms boring/reaming machines.
- e. Production equipment (including dies, fixtures, and other tooling) “specially designed” for the “production” of the items controlled in 0A501.a through .x. or USML Category I.

17. In Supplement No. 1 to part 774, Category 0, revise Export Control Classification Number (ECCN) 0E505 to read as follows:

0E505 “Technology” “required” for the “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by 0A505.

License Requirements

Reason for Control: NS, RS, UN, CC, AT

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738)</i>
NS applies to “technology” for “development,” “production,” operation,	NS Column 1

installation, maintenance, repair, overhaul, or refurbishing commodities in 0A505.a and .x; for equipment for those commodities in 0B505; and for “software” for that equipment and those commodities in 0D505	
RS applies to “technology” for “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishing commodities in 0A505.a and .x; for equipment for those commodities in 0B505 and for “software” for those commodities and that equipment in 0D505	RS Column 1
UN applies to entire entry	See § 746.1 of the EAR for UN controls
CC applies to “technology” for the “development” or “production” of commodities in 0A505.b	CC Column 1
AT applies to “technology” for “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishing commodities in 0A505.a, .d, and .x	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

TSR: N/A

Special conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any “technology” in 0E505.

List of Items Controlled

Related Controls: Technical data required for and directly related to articles enumerated in USML Category III are “subject to the ITAR”.

Related Definitions: N/A

Items: The list of items controlled is contained in this ECCN heading.

18. In Supplement No. 1 to part 774, Category 1, revise Export Control Classification Number (ECCN) 1A984 to read as follows:

1A984 Chemical agents, including tear gas formulation containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloroacetophenone (CN), except in individual containers with a net weight of 20 grams or less; liquid pepper except when packaged in individual containers with a net weight of 3 ounces (85.05 grams) or less; smoke bombs; non-irritant smoke flares, canisters, grenades and charges; and other pyrotechnic articles having dual military and commercial use, and “parts” and “components” “specially designed” therefor, n.e.s.

License Requirements

Reason for Control: CC

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738)</i>
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CC applies to entire entry	CC Column 1
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List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2021-17647 Filed: 8/18/2021 8:45 am; Publication Date: 8/19/2021]